

SENATE BILL 1788
By Cohen

AN ACT relative to supportive residential services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) This act applies to the operators/licensees of facilities that are to be licensed and classified to provide supportive residential services to persons with HIV disease.

(b) The license issued to each operator/licensee shall designate the licensee's name, facility name, address, the date the license was issued and the expiration date. Such licenses shall be issued for a period of not less than six (6) months nor more than twenty-four (24) months.

(c) When application for licensure is made in accordance with Section 2 and the facility is in compliance with all other license requirements or has an accepted plan of correction for any areas of non-compliance, the license shall be issued.

SECTION 2.

(a) Any person acting individually or jointly with other persons who propose to build, own, establish, or operate a supportive residence for persons with HIV disease shall submit pre-application information on forms provided by the department.

(b) Application for a license to establish or operate a residential facility for persons with HIV disease shall be made in writing and submitted, with other such information as the department may require, on forms provided by the department.

(c) The application shall contain the following information:

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(1) The name and address of the person or business entity who will be the licensee, and if appropriate:

(A) The name and address of the corporation, board of directors, officers and registered agent; and

(B) Documentation certifying the corporation as a non-profit corporation.

(2) The names and locations of the facilities for which a license is sought; and

(3) The name of the person or persons under whose management or supervision the facility will be operated.

SECTION 3.

(a) The license is not transferable. It is issued to a specific licensee. A licensee may have one (1) license to serve more than one (1) geographic location. The license shall immediately become void and shall be returned to the department when the facility is sold or leased; when operation is discontinued; or when the corporation which is the licensee dissolves or terminates.

(b) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases.

SECTION 4. The terms "survey", "inspection" and "evaluation" are synonymous. These terms refer to the overall examination of compliance with this act. All facilities to which this act applies shall be subject to and shall be deemed to have given consent to annual inspections, surveys, and evaluations by properly identified personnel of the department. The licensee, or person representing the licensee in the facility, shall provide to the representative of the department access and entry to the premises or facility for obtaining information required to carry out this act. In addition, representatives of the department shall have access to and may reproduce or photocopy at the department's cost any books, records, and other documents

maintained by the facility, the licensee, or their representatives to the extent necessary at a rate determined by the facility.

SECTION 5. Each licensee shall submit an annual attested financial statement to the department.

SECTION 6.

(a) Every facility shall conspicuously post or display in an area of its offices accessible to clients, employees, and visitors the following:

(1) Its current license; and

(2) A copy of any order currently in effect pertaining to the operation of a facility issued by the department or a court.

(b) A facility shall retain the following for public inspection:

(1) A complete copy of every inspection report of the facility received from the department during the past three (3) years;

(2) A copy of every order pertaining to the operation of the facility issued by the department or a court during the past three (3) years;

(3) A description of the services provided by the facility; and

(4) A list of the corporation's officers and board of directors.

SECTION 7. For purposes of this act, unless the context otherwise requires:

(1) "Abuse" means any physical or mental injury or sexual assault inflicted on a client in a facility other than by accidental means;

(2) "Act" means the Supportive Residences Licensing Act;

(3) "Activities of daily living" means eating, toileting, bathing, dressing, ambulating, and transfer;

(4) "Adequate" means enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the clients of a facility under the particular set of circumstances in existence at the time of review;

(5) "Advance directive" means a written directive, such as a living will, power of attorney for health care, or Do Not Resuscitate order, relating to the provision of care to the individual;

(6) "Aide or orderly" means any person providing direct personal care, training or habitation services to clients;

(7) "Appropriate" is a term used to indicate that a requirement is to be applied according to the needs of a particular client, individual or situation;

(8) "Assessment" means the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of a client;

(9) "Boards of directors" means the same as the governing body;

(10) "Case management system" means a standardized and systemic process of assessment, planning, service coordination, referral, advocacy, and follow-up through which the multiple service needs of clients are identified and met;

(11) "Client" means a person residing in a supportive residence;

(12) "Client's representative" means an individual who is authorized to act on behalf of a client who is unable to reach and communicate an informed decision as determined by the attending physician. The following care or priority shall apply:

(A) agent authorized by durable power of attorney for health care;

(B) legal representative or other court appointed personal representative;

and

(C) an individual who is designated in writing as such by a client.

(13) "Confinement" means to involuntarily limit a client to a room or other small enclosed area;

(14) "Contract" means a binding agreement between a client or the client's representative (or, if the client is a minor, the client's parent) and the facility or its agent;

(15) "Department" means the Tennessee department of health;

(16) "Direct care aide" means any person who provides nursing care, personal care or psychosocial support to clients of supportive residences, regardless of title, and who is not a qualified professional. A direct care aide must function under the supervision of a licensed nurse when performing nursing or personal care duties;

(17) "Direct care volunteer" means any person who provides non-nursing services to clients of the facility, and who does not receive fiduciary compensation for these services;

(18) "Commissioner" means the commissioner of health or his/her designee;

(19) "Discharge" means a full release of any client from a facility;

(20) "Emergency" means a situation, physical condition, or one (1) or more practices, methods, or operations that present imminent danger of death or serious physical or mental harm to clients of a facility;

(21) "Facility" means a private home, institution, building, residence, or any other place that provides a home-like atmosphere as well as a continuum of care which takes into account the special needs of persons with HIV disease;

(22) "Facility management" means the individual, or structure, identified responsible for the overall facility operation by the governing body;

(23) "Full-time" means on duty a minimum of thirty-six (36) hours, four (4) days per week;

(24) "Goal" means an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific short-term objectives directed toward its attainment;

(25) "Governing body" means the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individual it serves;

(26) "HIV disease" means infected with the human immunodeficiency virus or any other causative agent of acquired immunodeficiency syndrome (AIDS);

(27) "Hospital" means the care and treatment of a person in a hospital as an inpatient;

(28) "Integrated care plan" means the overall document that assesses and interprets the needs identified in the case management system into specific actions for a client to maintain or attain his/her maximum potential for as long as possible. This shall include consideration of medical, nutritional, social and psychosocial issues. If needed, the medical plan of care is one (1) part of this plan;

(29) "Immediately" means to take action without hesitation;

(30) "License" means any of the following types of licenses issued to an applicant or licensee by the department;

(A) "Probationary license" means a license issued to an applicant or licensee which has not held a license contiguous to its application; and

(B) "Regular license" means a license issued to an applicant or licensee that is in substantial compliance with this act;

(31) "Medical plan of care" means those aspects of a client's integrated care plan which center on treatments, pharmaceuticals, or modalities provided directly by or under the direct supervision of a physician or nurse;

(32) "Misappropriation of property" means using a client's cash, clothing, or other possessions without authorization by the client or the client's authorized representative; failure to return within seven (7) days after a client's discharge; or failure to refund money within seven (7) days after death or discharge;

(33) "Neglect" means a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a client or in the deterioration of a client's physical or mental condition;

(34) "Nurse" means a registered nurse or a licensed practical nurse;

(35) "Nursing care" means a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the client's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health;

(36) "Operator" means the person responsible for the control, maintenance, and governance of the facility, its personnel, and physical plant;

(37) "Owner" means the not-for-profit corporation that owns a supportive residence. If a supportive residence is operated by a person or entity who leases the physical plant that is owned by another person or entity, "owner" means the person who operates the supportive residence; except that if the person or entity who owns the physical plant is an affiliate of the person who operates the supportive residence and has significant control over the day-to-day operations of the supportive residence, the person or entity who owns the physical plant shall incur, jointly and severally with the owner, all liabilities imposed on an owner under this act;

(38) "Physician" means any person licensed by the state of Tennessee to practice medicine in all its branches;

(39) "Plan of correction" means a written plan submitted to the department for correction of a violation of this act cited by the department. The plan shall describe the steps that will be taken in order to bring the supportive residence into compliance and the time frame for completion of each step;

(40) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less;

(41) "Qualified professional" means a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the state of Tennessee, if required;

(42) "Registered nurse" means a person with a valid Tennessee license to practice as a registered professional nurse;

(43) "Restraint of a client" means the application of a device or administration of a drug to limit movement;

(44) "Room" means a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors;

(45) "Satisfactory" means enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the clients of a facility under the particular set of circumstances in existence at the time of review;

(46) "Sufficient" means enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the clients of a facility under the particular set of circumstances in existence at the time of review;

(47) "Supportive residence" means a supportive residence for persons with HIV disease;

(48) "Transfer" means a change in status of client's living arrangements from one (1) facility to another facility;

(49) "Universal precautions or universal blood and body fluid precautions" means measures utilized by health care providers to protect both patients and health care providers from contact with blood and body fluids to prevent transmission of the human immunodeficiency virus (HIV) during health care procedures. In this context, body fluids

means semen, vaginal secretions, cerebrospinal fluid (CSF), synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, and amniotic fluid. In this context, body fluid does not mean feces, nasal secretions, saliva, sputum, sweat, tears, urine, or vomitus unless they contain visible blood; and

(50) "Volunteer" means both direct care volunteers and other individuals working without fiduciary compensation indirectly assisting facility management and clients.

Examples include housekeeping, building or yard maintenance, writing letters for clients, visiting with clients, reading with clients, or sharing other recreational activities with clients.

SECTION 8. A full-time employee shall be designated as the facility manager and shall be responsible for overall management of the facility. The manager must, at a minimum, have a Bachelor's Degree from an accredited college or adequate equivalent experience.

SECTION 9. The facility shall develop and implement plans for disaster preparedness and fire safety, including a plan for evacuation of the facility. Employees shall receive instruction on implementation of the plans including instruction in the use of fire extinguishers. These plans shall be practiced in accordance with facility policies, at least twice annually.

SECTION 10. The facility shall develop and implement infection policies and procedures, and adhere to universal precautions. The manager shall establish programs to assure compliance with the infection control policies and procedures. The facility shall develop and implement internal reporting requirements in the event that an employee or volunteer is exposed to blood or body fluids, or in the case of a needle stick. The internal reporting requirements shall include written records of exposures.

SECTION 11. The facility must develop and maintain a case management system as part of its services. Individuals identified as having case management responsibility shall create and monitor an integrated care plan for each client, which shall be regularly accessible to those responsible for implementing the plan.

SECTION 12.

(a) Before a person is admitted to a facility, or at the expiration of the period of a previous contract, a written contract shall be executed between a licensee and client or client's representative.

(b) An adult person shall be presumed to have the capacity to contract for admission to a residential facility for persons with HIV disease unless adjudicated a "disabled person".

(c) If there is no guardian, agent, or member of the person's immediate family available, able, or willing to execute the contract and a physician determines that a person is so disabled as to be unable to consent to placement in a facility, or if a person has already been found to be a "disabled person", but no order has been entered allowing residential placement of the person, that person may be admitted to a facility before the execution of a contract required by this section; provided that a petition for guardianship or for modification of guardianship is filed within thirty (30) days after the person's admission to a facility, and provided further that such a contract is executed within ten (10) days after the disposition of the petition.

(d) Facilities shall ensure that all forms, agreements, and signage which carry information significant to the clients shall be available, and worded so as not be too confusing to the reader.

SECTION 13. At the time of the client's admission to the facility, a copy of the written contract shall be given to the client and his/her client representative. The contract shall specify the services that will or will not be provided. The contract shall specify the rights, duties, and financial obligations of the client and the facility.

SECTION 14.

(a) The facility shall develop and implement written policies and procedures that provide for the following: admission and discharge practices; information concerning an individual's rights under state law to make decisions regarding treatment and to make advance directives; the rights of clients to file a grievance in response to facility actions;

and other rights of the client. These policies and procedures shall be shared with the client before or at the time of admission.

(b) The execution of any advance directives must be documented in the client's record. The facility cannot condition provision of care or otherwise discriminate on the basis of the execution of any advance directive.

(c) The facility shall develop and implement policies and procedures relating to services which can or cannot be provided to dependent minors of clients.

(d) The facility shall develop policies and procedures that specify discharge and transfer practices due to improvement or decline in the client's medical condition.

SECTION 15.

(a) A client shall not be deprived of any rights, benefits, or privileges guaranteed by law based solely on his/her status as a resident of the facility.

(b) A client shall be permitted to retain and use or wear his/her personal property in his/her immediate living quarters unless deemed medically inappropriate or socially disruptive by a physician and so documented in the client's record.

(c) The facility shall provide a means of safeguarding small items of value for the clients in their rooms or in any other part of the facility, so long as the client has daily access to such valuables.

(d) The facility shall make reasonable efforts to prevent loss and theft of clients' property. The facility shall develop procedures for investigating complaints concerning theft of clients' property and shall promptly investigate all such complaints.

(e) There shall be no traffic through a client's room to reach any other area of the building.

(f) Children under sixteen (16) years of age who are related to employees or volunteers of a facility, and who are not themselves employees/volunteers of the facility, shall be restricted to quarters reserved for family or employee use except during times

when such children are part of a group visiting the facility as part of a planned program or similar activity.

(g) A client may refuse to perform labor for a facility unless specified in the admission contract, and the client's integrated care plan.

(h) A client shall be permitted the free exercise of religion. Upon a client's request, and if necessary at his/her expense, the facility management shall make arrangements for a client's attendance at religious services of the client's choice. However, no religious beliefs or practices or attendance at religious services may be imposed upon any client.

(i) The facility shall encourage and not prohibit a client's right to vote in person or by absentee ballot in all elections.

(j) Upon entering the facility, clients shall be provided with a form on which they must either list those persons to be notified in the event of their death, and at such time as their death appears imminent or specifically decline to have any person notified of his/her death.

(k) The facility shall notify the client's representative whenever the client suffers from a sudden illness or accident, or if and when unexplained absences occur, in accordance with the terms of the contract.

(l) A client may not be transferred, discharged, evicted, harassed, dismissed, or retaliated against for filing a complaint or providing information concerning a complaint against the facility.

SECTION 16.

(a) A client shall be permitted to retain the services of his/her own personal physician at his/her own expense under an individual or group plan of health insurance, or under any public or private assistance program providing such coverage.

(b) The department shall not prescribe the course of medical treatment provided to an individual client by the client's physician in a facility.

(c) All clients shall be permitted to obtain from their own physician or the physician retained by the facility complete and current information concerning his/her medical diagnosis, treatment and prognosis in terms and language the client can reasonably be expected to understand.

(d) All clients shall be permitted to participate in the planning of their total care and medical treatment to the extent that their condition permits. Any person a client chooses may also participate in the planning of the client's care.

(e) No client shall be subjected to experimental research or treatment without first obtaining his/her informed, written consent and advising facility management. The experimental research/treatment shall be part of the client's integrated care plan.

(f) Every client shall be permitted to refuse medical treatment and to know the consequences of such action.

(g) Every client or client's representative shall be permitted, at his/her own expense, to inspect and copy all of the client's clinical and other records concerning the client's care and maintenance kept by the facility or by the client's physician.

(h) All clients shall be permitted respect and privacy in their medical and personal care program. Every client's case discussion, consultation, examination, and treatment shall be confidential and shall be conducted discreetly. Those persons not directly involved in the client's care must have the client's permission to be present.

SECTION 17.

(a) Restraints shall not be used except as a temporary measure to administer treatment or medications or in an emergency.

(1) In the case of administering treatment or medication, restraints shall be used only upon the written order of the physician. The order shall specify the reasons for use, duration and type of restraint.

(2) In the case of an emergency, the restraint shall only be used to protect a client from harming himself/herself or others. The physician shall be

notified immediately after the restraint is applied and the client's needs are met. The physician may order continued use of restraints while steps are taken to mitigate the need for restraints or to locate a more appropriate health care setting for the client. In no case may restraints be used for more than forty-eight (48) hours.

(3) In either case, when restraints are used, a trained, licensed health care professional who is knowledgeable in restraint application and use shall be available at the facility at all times the restraint is in use. Further, a client wearing a restraint shall have it released for a few minutes at least once every two (2) hours, or more often if necessary. The client's position shall be changed at these times.

(b) No chemical, medication, or tranquilizer shall be employed by a facility as a restraint or confinement in lieu of or in addition to any physical restraint. Such chemicals, medications or tranquilizers may only be employed as part of a duly prescribed therapeutic medical treatment program authorized by the client's physician and documented in the client's integrated care plan and medical record.

SECTION 18.

(a) Every client shall be permitted unimpeded, private and uncensored communication of his/her choice by mail and public telephone. The facility management shall ensure that correspondence is promptly received and mailed.

(b) The facility management shall ensure that clients may have private visits at any reasonable hour unless such visits are not medically advisable for the client as documented in the client's record by the client's physician. The facility shall allow daily visits. Visiting hours shall be posted in plain view of visitors. The facility management shall ensure that space for visits is available and that facility personnel knock, except in an emergency, before entering any client's room.

(c) Unimpeded, private, and uncensored communication by mail, public telephone, and visitation may be reasonably restricted by a physician or facility management only in order to protect the client or others from harm, harassment or intimidation, provided that the reason for such restriction is placed in the client's integrated care plan and medical plan of care by the physician or facility management. Upon admission, all clients shall be advised of the potential causes of such restrictions.

(d) Any employee or agent of a public agency, any representative of a community legal services program or any member of a community organization shall be permitted access at reasonable hours to any individual client or facility, if the purpose of such agency, program or organization includes rendering assistance to clients without charge, but only if there is neither a commercial purpose nor effect to such access and if the purpose is to do any of the following:

(1) Visit, talk with, and make personal, social, and legal services available to all clients;

(2) Inform clients of their rights and entitlements and their corresponding obligations, under federal and state laws, by means of educational materials and discussions in groups and with individual clients;

(3) Assist clients in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in all other matters in which clients are aggrieved. Assistance may include counseling and litigation; or

(4) Engage in other methods of asserting, advising and representing clients so as to extend to them full enjoyment of their rights.

(e) No visitor shall enter the immediate living area of any client without first identifying himself/herself and then receiving permission from the client to enter. The rights of other clients present in the room shall be respected. A client may terminate at any time a visit by a person having access to the client's living area. Facility staff may

terminate visits or provide other accommodations for the visits if they are so requested by the client, or the visitor is involved in behavior violating other clients' rights. The visitor may be removed from the facility by facility staff if the visitor is participating in illegal activity or has been removed for engaging in such activity on the premises in the past.

SECTION 19. A client shall be permitted to manage his/her own financial affairs. A facility shall not manage client funds.

SECTION 20.

(a) A client shall be voluntarily discharged from a facility after he/she gives facility management, a physician, or a nurse of the facility written notice of the desire to be discharged. A client shall be discharged upon written consent of his/her representative unless there is a court order to the contrary. In such cases, upon the client's discharge, the facility is relieved of any responsibility for the client's care, safety, or well-being.

(b) The facility shall establish involuntary discharge procedures that shall include at least the following:

(1) Client behavior that may result in involuntary discharge:

(A) the client's decline or improvement in medical condition that may result in involuntary discharge;

(B) the client's physical safety; or

(C) the client's action, or inaction, which directly impinges on the physical safety of their clients, the facility staff or facility visitors;

(2) Client counseling that will be provided to avoid involuntary discharge;

(3) Client notification and due process concerning involuntary discharge;

(4) Time frames between counseling, notice, and involuntary discharge consistent with the reason for the involuntary discharge; and

(5) Discharge planning that will be done.

SECTION 21.

(a) There shall be a mechanism for regular client input in the decision-making processes of the facility at the governing body level.

(b) There shall be regular meetings with clients for the purpose of advising the facility management on procedures and policies.

SECTION 22.

(a) A licensee, facility manager, employee, volunteer, or agent of a facility shall not abuse or neglect a client.

(b) A facility employee, agent, or volunteer who becomes aware of abuse or neglect of a client shall immediately report the matter to the facility management.

(c) Upon becoming aware of abuse or neglect, facility management shall immediately report the matter by telephone and in writing to the client's representative and the department.

SECTION 23.

(a) The facility shall develop job descriptions for each position including specifying minimum qualifications. Employees and volunteers shall meet or exceed the minimum qualifications for the position for which they are employed.

(b) All employees shall receive orientation including general information relating to goals, client safety, disaster preparedness, fire safety, universal precautions and infection control, and job tasks.

(c) Employees and volunteers shall be provided training to assure staff can effectively perform their jobs and be familiar with the requirements of AIDS confidentiality.

(d) At least annual evaluations of employee work performance shall be made by management of the facility.

(e) Each facility must have policies and procedures related to volunteer services. Direct volunteers shall receive the same general orientation as employees; and orientation specific work assignment.

(f) Each employee or direct care volunteer shall have an initial health evaluation including a tuberculin skin test. The initial health evaluation shall be conducted no more than five (5) days prior to or thirty (30) days after the employee or direct care volunteer begins work. The facility shall maintain records of the initial health evaluation.

(g) A Mantoux TB skin test shall be completed for each employee, direct care volunteer, non-employee facility resident no more than ninety (90) days prior to the first day of work or residence. All significant reactors shall have documentation in their file or follow-up and consideration for therapy. The facility shall maintain records of each screening.

(h) The facility shall identify a responsible person to be available on the premises twenty-four (24) hours a day to respond to emergency needs of the clients. This person may be an employee, volunteer, or client. The facility shall ensure that clients are informed of the identity of the responsible person.

SECTION 24.

(a) Each client admitted shall be under the care of a physician.

(b) Each client admitted shall have had a physical examination within thirty (30) days after admission, unless the client has had a physical examination no more than thirty (30) days prior to admission; or has been admitted directly from an acute care hospital where the client had been admitted as a patient.

(c) Each client admitted shall have a Mantoux TB skin test administered within ninety (90) days before admission or be under the care of a physician for TB. All significant reactors shall have documentation in their record of follow-up and consideration for therapy.

(d) The names and telephone numbers of persons to contact in medical and other emergencies shall be available. This information shall be reviewed with staff, contractual employees and direct care volunteers.

(e) There shall be one (1) or more agreements with area hospitals for emergency admissions and needed hospital-based services, for use in instances where a client is incapable of deciding his/her own hospital admission.

(f) Each client shall have an assessment of physical, mental, and psychosocial needs. These needs shall be addressed in an integrated care plan that will allow the client to maintain his/her maximum potential for as long as possible.

(g) The facility shall either contract, or provide directly, the staff and services needed to meet each client's integrated care plan. The integrated care plan shall be updated as needed, or at least every three (3) months.

SECTION 25.

(a) Adequate and properly supervised nursing care and assistance with activities of daily living shall be provided to each client to meet the total care needs of the client as determined by the integrated care plan. Provision of staff may be made directly or through a licensed home health agency or hospice program.

(b) All treatments and procedures shall be administered as ordered by the physician.

(c) Objective observations of changes in a client's condition, including mental and emotional changes, as a means for annualizing and determining care required and the need for further evaluation and treatment, shall be made by staff and recorded in the client's medical plan of care.

(d) Assistance with activities of daily living shall be provided, as needed. This shall include, but not be limited to, the following:

(1) Each client shall have proper daily personal attention, including skin, nails, hair or oral hygiene, in addition to treatment ordered by the physician;

(2) Each client shall have at least one (1) complete bath and hair wash weekly and as many additional baths and hair washes as necessary for satisfactory personal hygiene and comfort;

(3) Each client shall have clean, suitable clothing in order to be comfortable, sanitary, free of odors, and decent in appearance; and

(4) Each client shall have clean bed linens at least once weekly and more often if necessary.

SECTION 26.

(a) Every facility shall adopt written policies and procedures which shall be followed in the operation of the facility for properly and promptly obtaining, dispensing, administering, and disposing of drugs and medications. These policies and procedures shall be in compliance with all applicable federal, state, and local laws.

(b)

(1) All medications, including cathartics, headache remedies, or vitamins, shall be given only upon the written order of a physician. All such orders shall have the handwritten signature of the physician. Rubber stamp signatures are not acceptable. These medications shall be given as prescribed by the physician and at the designated time.

(2) Telephone orders may be taken by a registered nurse or licensed practical nurse. All such orders shall be immediately written in the client's medical plan of care record or a "telephone order form" and signed by the nurse taking the order. These orders shall be countersigned by the physician within five (5) working days.

(c) All medications to be released to the client, or person responsible for the client's care, at the time of discharge or when the client is going to be temporarily out of the facility at medication time shall be approved by the physician. A notation concerning their disposition shall be made in the client's medical plan of care.

SECTION 27.

(a) The facility shall comply with all federal and state laws and regulations relating to the procurement, storage, dispensing, administration, and disposal of medications.

(b) All Schedule II controlled substances shall be stored in such a manner that two (2) separate locks, using two (2) different keys, must be unlocked to obtain these substances. This may be accomplished by several methods such as locked cabinets within locked medicine rooms, separately locked, securely fastened boxes (or drawers) within a locked medicine room when not in use, or portable medication carts containing a separate locked area within the locked medication cart, when such cart is made immobile.

(c) All discontinued medications having expiration dates that have passed, and medications of clients who have been discharged or who have expired shall be disposed of in accordance with the written policies and procedures. This rule shall not apply to clients who have been temporarily transferred to a hospital or who are on a temporary home visit. Medications for such persons shall be kept in the facility until such time as the client expires or is discharged from the facility.

(d) For all Schedule II substances, a controlled substances record shall be maintained that lists on separate sheets, for each type and strength of Schedule II substance, the following information: date, time administered, name of client, dose, physician's name, signature of person administering such controlled substance.

SECTION 28.

(a) Clients shall be encouraged to independently administer their own medications. If a client cannot administer his/her own medications, administration shall be by licensed medical or licensed nursing personnel in accordance with their respective licensing requirements.

(b) Medications for all clients shall be properly labeled and stored in accordance with the facility's policy and procedures.

(c) The medications of each client shall be kept and stored in the containers in which they were originally received. Medications shall not be transferred between containers, except that a licensed nurse may remove medication from original containers and place it in other containers to be sent with a client when the client will be out of the facility at the time of scheduled administration of medications.

(d) Medications prescribed for one (1) client shall not be administered to another client.

(e) If for any reason a physician's medication order cannot be followed, the physician shall be notified as soon as is reasonable, depending upon the situation, and a notation made in the client's medical plan of care.

(f) Medication errors and drug reactions shall be immediately reported to the client's physician. An entry thereof shall be made in the client's medical plan of care, and the error or reaction shall also be described in an incident report.

SECTION 29. If the integrated care plan identifies that client intake of adequate nutrition or hydration is a problem, a plan shall be developed to meet those needs.

SECTION 30. Meals shall be scheduled in accordance with times customary in the community. Care shall be taken to ensure a variety of menus that recognize client preferences.

SECTION 31.

(a) Food shall be free from spoilage, filth, and other contamination, and shall be safe for human consumption. Food must be prepared in an inspected food service establishment.

(b) Food must be protected from potential contamination while being stored, prepared, served, or transported. Potentially hazardous foods shall be maintained at 45 degrees Fahrenheit or below or 140 degrees Fahrenheit or above.

(c) Adequate refrigeration facilities and hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage.

(d) No person shall work in food service, while infected with a disease in a communicable form that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or while afflicted with a boil or infected wound, or an acute respiratory infection.

(e) Staff shall thoroughly wash their hands with soap and warm water before starting work, during work as often as necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Staff shall not use tobacco in any form while engaged in food preparation or service nor while in any equipment or utensil washing or food preparation area.

(f) Food contact surfaces shall be easily cleanable, smooth, free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult to clean internal corners and crevices. Food contact and non-food contact surfaces shall be maintained in a clean condition.

(g) Equipment and utensils shall be washed, rinsed, and sanitized after each use. For manual cleaning and sanitizing, items will be washed in a hot detergent solution, rinsed with clear water, and sanitized by one (1) of the following methods:

(1) immersion for at least one-half (1/2) minute in clean, hot water of at least 170 degrees Fahrenheit;

(2) immersion for at least one (1) minute in a clean solution of at least 50 parts per million of available chlorine as a hypochlorite and having a temperature of at least 75 degrees Fahrenheit;

(3) immersion for at least one (1) minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and a temperature of at least 75 degrees Fahrenheit; or

(4) immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 (1990, no further editions or amendments included) that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite and having a temperature of at least 75 degrees Fahrenheit for one (1) minute.

(h) Mechanical cleaning and sanitizing may be done by spray-type or immersion dishwashing machines, or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. Machines shall be installed and maintained in good repair, and shall be operated in accordance with the manufacturer's instructions.

(i) Utensils shall be air dried before being stored or stored in a self-draining position.

(j) Garbage and refuse shall be kept in durable, easily cleanable, insect and rodent-proof containers that do not leak or absorb liquids.

(k) The facility shall be kept in such a condition as to prevent the harborage or feeding of insects and rodents.

(l) Floors, floor coverings, walls, and ceilings shall be easily cleanable and maintained in good repair.

(m) Poisonous or toxic materials shall be properly labeled. Insecticides and rodenticides and detergents, sanitizers, and other cleaning agents shall be stored physically separate from each other and not stored above or intermingled with food, food equipment, and utensils.

SECTION 32.

(a) No more than two (2) people shall share a bedroom. No room commonly used for other purposes, including, but not limited to, a hall, stairway, attic, garage, storage area, shed or similar detached building, shall be used as a sleeping room for any client.

(b) Toilets and bathrooms shall be conveniently located. At least one (1) toilet, washbasin, and bathtub or shower shall be provided per six (6) clients. If the bathing area or toilet room contains more than one (1) of each fixture, a means of allowing individual privacy shall be provided.

(c) Sufficient room shall be available throughout the facility to accommodate and serve all clients in comfort, safety, and privacy. The premises shall be maintained in good repair and shall provide a safe, clean, and healthful environment, that is free of pests. Exits shall not be blocked.

(d) Each facility shall be in full compliance with local building codes and fire safety/protection requirements.

(e) Garbage shall be disposed of in accordance with state and local requirements. Potentially infectious medical wastes shall be disposed of in accordance with state and local requirements. All solid waste shall be handled in the facility to prevent transmission of disease. Sharps must be stored and disposed of in rigid, puncture-resistant containers.

(f) Water supply, sewage disposal and plumbing systems shall comply with all applicable state and local codes and ordinances.

SECTION 33.

(a) Adverse licensure actions include the denial of an initial license application, denial of an application for license renewal, revocation of a license, and suspension of a license.

(b) Adverse licensure action shall be considered by the department under the following conditions:

(1) The applicant or licensee has been convicted of a felony or two (2) or more misdemeanors involving moral turpitude, as shown by a certified copy of the court's conviction, and

(A) The department determines after investigation that the person has not been sufficiently rehabilitated to warrant the public trust; or

(B) Upon other satisfactory evidence that the moral character of the applicant or licensee is not reportable.

(2) The licensee submits false information on department licensure forms.

(3) The licensee submits false information during an inspection.

(4) The licensee refuses to allow an inspection to occur.

(5) The licensee violates the provisions of this act.

(6) The licensee violates the rights of its clients.

(7) The licensee fails to submit or implement a plan of correction.

(8) The department finds the licensee's conduct or practice to be detrimental to the health, safety, or welfare of a patient.

(c) In determining whether to take adverse licensure action, the department shall consider the following factors:

(1) The gravity of the violation, including the probability that death or serious physical or mental harm to a client will result or has resulted and the severity of the actual or potential harm;

(2) The extent to which the provisions of this act were violated;

(3) The reasonable diligence exercised by the licensee and any efforts by the licensee to correct the violations;

(4) Any previous violations committed by the licensee; and

(5) The financial benefit to the licensee of committing or continuing the violation.

(d) The commissioner will order an emergency suspension of a license when the commissioner finds that continued operation of the facility poses an immediate and serious danger to the public health, safety, or welfare. The suspension shall take effect upon the issuance of an order of emergency suspension by the commissioner and shall

remain in effect during any administrative proceeding contesting the action. Promptly following any emergency suspension of a license, the department shall take action to revoke the license.

(e)

(1) The department shall notify the applicant or licensee in writing prior to denying an application, refusing to renew a license, or revoking a license.

(2) The notice shall be served on the applicant or licensee either by personal service or by registered mail. The notice shall contain the following information:

(A) A description of the particular reasons for the proposed action, including citations of the specific provisions of this act under which the proposed action is being taken;

(B) The date, not less than thirty (30) days from the date of the mailing or service of the notice, on which the action will take effect, unless appealed by the applicant or licensee; and

(C) A description of the manner in which the applicant or licensee may appeal the proposed action and the right of the applicant or licensee to a hearing under this act.

SECTION 34. This act shall take effect upon becoming a law, the public welfare requiring it.

AN ACT relative to supportive residential services.

AN ACT relative to supportive residential services.

AN ACT relative to supportive residential services.

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